

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)

)
Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Saint Paul, Arkansas)

) MM Docket No. 97-34
) RM-8938
)
)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: November 5, 1997

Released: December 5, 1997

By the Chief, Allocations Branch:

1. Before the Commission for consideration is the *Notice of Proposed Rule Making* ("Notice"), 12 FCC Rcd 1789 (1997), issued herein in response to a petition for rule making filed on behalf of Saint Paul Broadcasting ("petitioner") proposing the allotment of FM Channel 287A to Saint Paul, Arkansas, as its first local aural transmission service. Petitioner filed supporting comments in response to the *Notice*. No other comments were received.

2. Although the *Notice* recognized that Saint Paul is incorporated, and has some community indicia,¹ in light of its meager size (population 88)² we requested the petitioner to furnish additional information to demonstrate whether Saint Paul contains other attributes normally associated with establishing a locality's status as a *bona fide* community for allotment purposes.³ In response, petitioner reports that the periodical "At the Crossroads" is published in Saint Paul; that stream processes in Saint Paul have been the subject of geological analysis led by Mount Union College; and that Saint Paul has been recognized as a community by the

¹Petitioner reported that Saint Paul has local officials, a school system, and a water, sewer and waste district.

²Population figure was taken from the 1990 U.S. Census. Although petitioner reported that Saint Paul has a population of 200 persons according to city hall sources, we requested documented information to substantiate its claim. Petitioner's responsive comments did not address this issue and consequently, we will utilize the official 1990 U.S. Census count for Saint Paul.

³The Census Bureau's listing of a particular locality for statistical purposes, which is based on information submitted by local governing officials, often coincides with a Commission determination that a requested location may be a community for allotment purposes. While recognition of an incorporated community signifies the presence of a political unit therein that has legally prescribed limits, powers and functions, it does not follow that such listing automatically entitles a petitioner to assume such a place is unquestionable for allotment purposes, especially in instances where outstanding issues were not addressed by the proponent in responsive comments, and did, in fact, result in the ultimate denial of the proposal to the incorporated community. See *Alberton, Montana*, 12 FCC Rcd 7609 (1997).

U.S. Department of Commerce National Oceanic and Atmospheric Administration, National Weather Service.⁴ In any event, petitioner continues to base its assertion that given Saint Paul's incorporation, it is entitled to community status in accordance with Commission precedent.

3. Initially, we note that petitioner's response does not address fully the matters raised in the *Notice*. Rather, they basically reinforce that Saint Paul is a geographic location. We note that according to the 1990 U.S. Census, Saint Paul was attributed therein with 48 housing units and a total land area of .75 square kilometers. However, we have discovered the presence in Saint Paul of a post office (zip code 72760), as well as an elementary and a high school, each of which incorporate Saint Paul in their name. We also note the presence of two churches and a fire district, all of which contain a Saint Paul address. Some of the commercial activity discovered in Saint Paul consists of a real estate office, a beauty salon, convenience store, and a grocery. Thus, given its small size, it is not surprising that the list of community elements in Saint Paul is relatively nominal. While Saint Paul cannot be described as a dynamic community, the areas surrounding are either rural, or contain a small population also.⁵ However, as the Commission has stated: "Congressional intent in enacting Section 307(b) ... was to provide the Commission with greater discretion in distributing frequencies, and to remove uniform but somewhat artificial barriers to the initiation of service in sparsely populated areas" (footnote omitted). *See, Essex, California*, 4 FCC Rcd 8084 (1989). Therefore, in light of the information we have discovered to establish additional attributes found in Saint Paul, and in view of no opposition having been lodged against the proposal, we will allot Channel 287A to Saint Paul, Arkansas.

4. As stated in the *Notice*, Channel 287A can be allotted to Saint Paul in conformity with the minimum distance separation requirements of Section 73.207(b) of the Commission's Rules provided the transmitter therefor is located at least 13.4 kilometers (8.3 miles) east thereof, utilizing in this instance, coordinates 35-48-14 and 93-37-00.⁶

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective January 20, 1998, the

⁴In this regard, petitioner provided a copy of a report issued by the Regional Director of the National Weather Service dated May 1, 1996, describing various weather phenomenon which had occurred recently in Arkansas, among other states. In particular, petitioner notes the announcement therein of a tornado which struck near "St. Paul", Arkansas on April 22, 1996.

⁵*I.e.*, Combs (pop. 80), Crosses (rural), Dulaney (pop. 50), Dutton (rural), Patrick (rural) and Pettigrew (pop. 100). The nearest community to Saint Paul of appreciable size is Fayetteville, Arkansas (pop. 48,200), which lies approximately 44.7 kilometers (27.8 miles) west thereof.

⁶The restricted site is necessary to negate a short spacing to Channel 287C3, Mena, Arkansas, at coordinates 34-38-46 and 94-16-53, as well as to the licensed site of Station KMCK(FM), Channel 289C1, Siloam Springs, Arkansas, at coordinates 36-11-07 and 94-17-49.

FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED to include the community listed below, as follows:

<u>City</u>	<u>Channel No.</u>
Saint Paul, Arkansas	287A

6. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

7. A filing window for Channel 287A at Saint Paul, Arkansas, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

8. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
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